

815 KAR 8:100. Criteria for local jurisdiction HVAC programs.

RELATES TO: KRS 171.450, 198B.650 - 198B.689

STATUTORY AUTHORITY: KRS 198B.654(1), 198B.6673(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.654(1) requires the department to promulgate administrative regulations necessary to enforce the provisions of KRS 198B.650 to 198B.689. KRS 198B.6673(2) requires the department to authorize local governing entities to establish HVAC inspection and permitting programs upon application. This administrative regulation establishes the requirements for local HVAC inspection and permitting programs.

Section 1. Uniform Criteria for Authorizing HVAC Inspection and Permitting Program. To petition the department, an individual governing entity or combination of entities applying for approval for an HVAC inspection program shall comply with the requirements established in this administrative regulation. (1) A local governing entity or combination of entities shall complete Notice of Local HVAC Inspection Program, Form HVAC 31, and submit it to the Department of Housing, Buildings, and Construction, Division of HVAC together with supporting documentation required by this administrative regulation.

(2) Qualified HVAC inspector and plan reviewer required. A local jurisdiction administering a local HVAC inspection program shall employ a qualified person to perform HVAC installation plan reviews and inspections. To be qualified, an inspector shall be licensed or certified in accordance with the provisions of KRS 198B.6673 and 198B.6678.

(3) Personnel. A complete list of HVAC inspection program personnel, who shall be employed to enforce the HVAC code within the local program's jurisdiction, shall be submitted to the Department of Housing, Buildings and Construction, Division of HVAC. The list of personnel shall include the name, job title, and certification or license status of each individual.

(4) Installation activity. The local HVAC program shall provide documentation of an estimation of the anticipated plan review, permitting, inspection, and enforcement activities for one (1) year to the Department of Housing Buildings and Construction, Division of HVAC.

(5) Schedule of fees. Each local inspection program shall adhere to the schedule of fees established in 815 KAR 8:070, Sections 4 and 5, for the permitting and inspection functions performed under the provisions of KRS 198B.6671, 198B.6673, and 815 KAR Chapter 8.

(6) Official contact person. The local government shall identify an individual authorized to correspond with the department.

(7) Detailed map required. If a local government's inspection program consists of a portion of a county, a detailed map shall be submitted to the department to identify the areas subject to the program.

Section 2. Contractual Agreement. If the department approves the Notice of Local HVAC Inspection Program, the department shall prepare a contract to be executed by the department and local government to authorize the local HVAC inspection program. The contract shall specify the jurisdictional authority of each entity to provide clarity for the public and to avoid duplication of services.

Section 3. State Jurisdiction. The department shall retain plan review, permitting, inspection, and enforcement responsibility in accordance with the Kentucky Building Code, 815 KAR Chapter 7, for all buildings that are:

(1) Institutional buildings; and

(2) Educational buildings or other facilities required to be licensed by the Cabinet for Health and Family Services, including day care centers, hospitals, and nursing homes, or other similar

facilities.

Section 4. HVAC Complaints. (1) A local government's inspection program shall:

- (a) Address all complaints occurring within the jurisdiction related to HVAC;
- (b) Document findings; and
- (c) Document resolutions reached, if any.

(2) If no resolution is reached, the alleged violator may request a hearing on the matter pursuant to KRS Chapter 13B.

Section 5. HVAC Violations. (1) A local government's HVAC inspection program shall:

- (a) Investigate all violations that occur within the jurisdiction;
- (b) Issue stop work orders; or
- (c) Require other remedial measures upon proof of violations.

(2) Local HVAC inspection programs shall initiate contact with and fully cooperate with county and Commonwealth attorneys regarding court cases resulting from a violation.

(3) A local government inspection program representative shall act as a witness for the department on violations resulting in a hearing pursuant to KRS Chapter 13B.

(4) Violations shall be documented in writing.

Section 6. Accounting of Fees. (1) A local HVAC inspection program shall maintain an accurate accounting of all HVAC plan review, permitting, and inspection fees.

(2) The fees received shall be deposited no less frequently than monthly in the local government's treasury or otherwise disposed of as required by law.

Section 7. Record Retention and Audits. (1) A local HVAC inspection program shall maintain official records of:

- (a) Applications received;
- (b) Permits and certificates issued;
- (c) Fees collected;
- (d) Inspection reports; and
- (e) Notices and orders issued.

(2) Official records shall be retained for at least the statutory period required for retention of public records pursuant to KRS 171.450.

(3) All documentation of violations and complaints shall be maintained by the local HVAC inspection program in compliance with 725 KAR 1:061 following resolution.

(4) Unresolved complaints shall be maintained in compliance with 725 KAR 1:061 following receipt of initial complaint.

Section 8. Procedures for Maintaining Local HVAC Inspection Program. (1)(a) The department shall monitor the program of local governments granted to a local HVAC inspection and permitting program.

(b) If the local government is found to be in violation of the requirements of this administrative regulation; the Kentucky Building Code, 815 KAR Chapter 7; any terms of their agreement; or KRS Chapter 198B, the department shall cancel the agreement, rescind the local HVAC inspection jurisdiction, and preempt the local program in its entirety.

(2) Each agreement for local HVAC inspection jurisdiction shall be in effect for three (3) years, unless canceled subject to subsection (1) of this section or by agreement of the parties in writing.

(3) The local government shall notify the department within thirty (30) days of the date of

any changes in personnel or fees during the contract period.

(4)(a) The department shall review any potential deficiencies of a local government's HVAC inspection program brought to the attention of the department.

(b) A representative of the local HVAC inspection program shall be present during the department's review.

(5)(a) The department shall reevaluate the HVAC inspection program of the local government regarding continuation of the local inspection program and renewal of the agreement before the expiration of the three (3) year contract with the department.

(b) Upon approval by the department and the local government, the department shall renew the contractual agreement for three (3) years.

Section 9. Incorporation by Reference. (1) "Notice of Local HVAC Inspection Program", Form HVAC 31, May 2020, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Heating, Ventilation, and Air Conditioning, Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (37 Ky.R. 199; Am. 730; eff. 10-1-2010; TAm 12-2-2011; 44 Ky.R. 2446; 45 Ky.R. 347; eff. 8-22-2018; TAm eff. 5-29-2020.)